



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, WA 98101

Department of Ecology
Water Quality Program
SEP 16 2005

Reply to
Attn Of: OWW-131

SEP 14 2005

Dave Peeler
Water Quality Program Manager
300 Desmond Drive
Lacey, WA 98503

Re: EPA/State Mutual Agreement on Numeric Nutrient Criteria Development Plan
for Washington State

Dear Mr. Peeler

This letter documents mutual agreement between the Washington State Department of Ecology (DOE) and the United States Environmental Protection Agency (EPA) in regard to the State's voluntary numeric nutrient criteria development plan, entitled Nutrient Criteria Development in Washington State, submitted to EPA in final version for review in April 2004.

Nutrient over-enrichment of the nation's waters is a serious problem, but determination of appropriate levels for protection is very complex, and implementation of that protection will be challenging. EPA recognizes that this Plan represents considerable effort undertaken by the State to address this issue. We especially appreciate the close cooperation of your staff with EPA-Region 10 in development of the State's Plan, and your continued support of their participation in our Regional Technical Advisory Group (RTAG). The achievement of mutual agreement on your Plan reflects the success of that process.

EPA's review of your Plan was coordinated between Region 10 and the National Nutrient Team at EPA Headquarters. The Region 10 review included both the Regional Nutrient Coordinators and the Water Quality Standards State Coordinator assigned to your state. Based upon our review, we believe this Plan describes a reasonable process by which the State can develop appropriate protective numeric nutrient criteria for adoption into State water quality standards. However, for your consideration we have enclosed some comments from our review that might be useful in the further refinement and implementation of your Plan.

EPA will use the Plan to evaluate the State's progress and determine whether or not the State is likely to complete numeric nutrient criteria development and adoption within the agreed upon timeframes. If the State has not met the milestones as scheduled in the plan, EPA will evaluate whether a federal promulgation would be appropriate. At that time, the Administrator may choose to exercise his discretion under the Clean Water Act (CWA) Section 303(c)(4)(B) to determine that new or revised standards are necessary to meet the requirements of the Clean Water Act, and

accordingly may choose to promulgate water quality criteria for nutrients applicable to surface waters within Washington in accordance with Section 303 (CWA). However, the Nutrient Criteria Development Plan submitted by Washington and agreed to here makes this possibility unlikely. EPA will make every effort to assist the State in developing nutrient criteria in a manner consistent with your Plan. We expect the continued cooperation and communication between the State and EPA to lead to scientifically defensible and protective nutrient criteria for the State's waters.

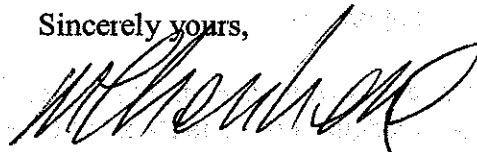
By this agreement, EPA is acknowledging that this plan reflects a reasonable course of action by which the State can proceed to develop numeric nutrient criteria; but this agreement does not, nor should it in anyway be interpreted to constitute an approval, or conditional approval of State water quality standards. EPA's agreement at this time does not reflect an in-depth review or a judgement that the resulting criteria will, or will not be protective, or otherwise consistent with the CWA.

We will expect you to submit numeric water quality standards for nutrients for associated waterbody types to EPA for approval according to the time-line projected in your Plan. In the interim, we request that the State provide updates to EPA to document progress according to the Plan through the established State mid-year/end-of-year review process. In the event that the Plan needs to be revised, changes can be made with mutual agreement, and EPA will update this letter to document our agreement with the revisions.

We applaud the State for making such a significant commitment of time and resources toward completion of this endeavor. We are very pleased with the quality of your Plan, and appreciate your efforts to prepare and submit it in a timely manner. We look forward to future collaboration and Washington's productive contributions to the Region 10 nutrient criteria development effort.

If you have any questions now, or in the future, regarding this matter, please feel free to contact the Washington Water Quality Standards Coordinator of my staff, Kathleen Collins at (206) 553-2108 or the Region 10 Nutrient Coordinator, Ralph Vaga at (206) 553-5171.

Sincerely yours,



Michael F. Gearheard, Director
Office of Water and Watersheds

Enclosure

cc: Susan Braley, WDOE
Alan Moore, WDOE
Jannine Jennings, Kathleen Collins, Ralph Vaga, EPA R10
Amy Parker, EPA HQ